



# House of Representatives

## File No. 834

General Assembly

January Session, 2011

**(Reprint of File No. 677)**

Substitute House Bill No. 6440  
As Amended by House  
Amendment Schedule "A"

Approved by the Legislative Commissioner  
May 23, 2011

**AN ACT CONCERNING APPLICATIONS FOR GUARDIANSHIP OF AN  
ADULT WITH INTELLECTUAL DISABILITY AND CERTAIN  
STATUTORY CHANGES RELATED TO INTELLECTUAL DISABILITY.**

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1 Section 1. Section 45a-670 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) An application for guardianship may be filed by the court on its  
4 own motion or by any adult person. The application and all records of  
5 Probate Court proceedings held as a result of the filing of such  
6 application, except for the name of any guardian of the respondent,  
7 shall be sealed and shall be made available only to the respondent or  
8 the respondent's counsel or guardian, and to the Commissioner of  
9 Developmental Services or the commissioner's designee, unless the  
10 Probate Court, after hearing held with notice to the respondent or the  
11 respondent's counsel or guardian, and to the commissioner or the  
12 commissioner's designee, determines that such application and records  
13 should be disclosed for cause shown. An application filed by the court  
14 on its own motion shall contain a statement of the facts on which the

15 court bases its motion, and such statement of facts shall be included in  
16 any notice to the respondent. Any other application filed shall allege  
17 that a respondent, by reason of the severity of the respondent's [mental  
18 retardation] intellectual disability is unable to meet essential  
19 requirements for the respondent's physical health and safety and  
20 unable to make informed decisions about matters relating to the  
21 respondent's care. Such application shall be filed in the court of  
22 probate in the district in which the respondent resides or is domiciled.  
23 Such application shall state: (1) Whether there is, in any jurisdiction, a  
24 guardian, limited guardian, or conservator for the respondent; (2) the  
25 extent of the respondent's inability to meet essential requirements for  
26 the respondent's physical health or safety, and the extent of the  
27 respondent's inability to make informed decisions about matters  
28 related to the respondent's care; (3) any other facts upon which  
29 guardianship is sought; and (4) in the case of a limited guardianship,  
30 the specific areas of protection and assistance required for the  
31 respondent.

32 (b) An application for guardianship may be filed by the parent or  
33 guardian of a minor child up to one hundred eighty days prior to the  
34 date such child attains the age of eighteen if the parent or guardian  
35 anticipates that such minor child will require a guardian upon  
36 attaining the age of eighteen. The court may grant such application in  
37 accordance with this section, provided such order shall take effect no  
38 earlier than the date the child attains the age of eighteen.

39 Sec. 2. Section 1-1g of the general statutes, as amended by section 1  
40 of public act 11-16, is repealed and the following is substituted in lieu  
41 thereof (*Effective October 1, 2011*):

42 (a) For the purposes of sections [4a-60,] 17a-210b, as amended by  
43 [this act, 17a-580,] public act 11-16 and 38a-816, [45a-669 to 45a-684,  
44 inclusive, 46a-11a to 46a-11g, inclusive, as amended by this act, 46a-51,  
45 46a-64b, 46b-84, 53a-46a, 53a-59a, 53a-60b, 53a-60c, 53a-61a, 53a-320  
46 and 54-56d,] mental retardation means a significantly subaverage  
47 general intellectual functioning existing concurrently with deficits in

48 adaptive behavior and manifested during the developmental period.

49 (b) For the purposes of sections 2c-2b, 4a-60, 4b-28, as amended by  
50 this act, 4b-31, 8-2g, 8-3e, 8-119t, as amended by this act, 9-159s, 10-91f,  
51 12-81, as amended by this act, 17a-210, as amended by [this act] public  
52 act 11-16, 17a-210b, as amended by [this act] public act 11-16, 17a-215c,  
53 17a-217 to 17a-218a, inclusive, as amended by [this act] public act 11-  
54 16, 17a-220, as amended by [this act] public act 11-16, 17a-226 to 17a-  
55 227a, inclusive, as amended by [this act] public act 11-16, 17a-228, as  
56 amended by [this act] public act 11-16, 17a-231 to 17a-233, inclusive, as  
57 amended by [this act] public act 11-16, 17a-247 to 17a-247b, inclusive,  
58 as amended by [this act] public act 11-16, 17a-270, as amended by [this  
59 act] public act 11-16, 17a-272 to 17a-274, inclusive, as amended by [this  
60 act] public act 11-16, 17a-276, as amended by [this act] public act 11-16,  
61 17a-277, as amended by [this act] public act 11-16, 17a-281, as amended  
62 by [this act] public act 11-16, 17a-282, as amended by [this act] public  
63 act 11-16, 17a-580, as amended by this act, 17a-593, 17a-594, 17a-596,  
64 17b-226, as amended by this act, 19a-638, as amended by this act, 45a-  
65 598, 45a-669, 45a-670, as amended by this act, 45a-672, 45a-674, as  
66 amended by this act, 45a-676, 45a-677, 45a-678, 45a-679, 45a-680, 45a-  
67 681, 45a-682, 45a-683, [and] 46a-11a to 46a-11g, inclusive, as amended  
68 by this act and public act 11-16, 46a-51, 46a-60, 46a-64, 46a-64b, 46a-66,  
69 46a-70, 46a-71, 46a-72, 46a-73, 46a-75, 46a-76, 46b-84, 52-146o, 53a-46a,  
70 53a-59a, as amended by this act, 53a-60b, as amended by this act, 53a-  
71 60c, as amended by this act, 53a-61a, as amended by this act, 53a-181i,  
72 53a-320, as amended by this act, 53a-321, as amended by this act, 53a-  
73 322, as amended by this act, 53a-323, as amended by this act, 54-56d, as  
74 amended by this act, and 54-250, "intellectual disability" shall have the  
75 same meaning as "mental retardation" as defined in subsection (a) of  
76 this section.

77 (c) As used in subsection (a) of this section, "general intellectual  
78 functioning" means the results obtained by assessment with one or  
79 more of the individually administered general intelligence tests  
80 developed for that purpose and standardized on a significantly  
81 adequate population and administered by a person or persons

82 formally trained in test administration; "significantly subaverage"  
83 means an intelligence quotient more than two standard deviations  
84 below the mean for the test; "adaptive behavior" means the  
85 effectiveness or degree with which an individual meets the standards  
86 of personal independence and social responsibility expected for the  
87 individual's age and cultural group; and "developmental period"  
88 means the period of time between birth and the eighteenth birthday.

89 Sec. 3. Subsection (b) of section 4b-28 of the general statutes is  
90 repealed and the following is substituted in lieu thereof (*Effective*  
91 *October 1, 2011*):

92 (b) Each state agency, commission or department, except the  
93 Department of Transportation, that plans to construct or enlarge a  
94 building or underground utility facility, which project has an  
95 estimated cost of one hundred thousand dollars or more, shall give  
96 written notice to the chief executive officer of the town, city or borough  
97 in which such project is planned, and to the members of the General  
98 Assembly representing such town, city or borough, not later than sixty  
99 days before advertising for bids for such project. If a state agency,  
100 commission or department plans to do such construction or  
101 enlargement itself, it shall give such notice not later than sixty days  
102 before beginning the work. Notwithstanding the provisions of this  
103 subsection, if the executive authority of the agency, commission or  
104 department determines that an emergency exists or that compliance  
105 with the provisions of this subsection would increase the cost of the  
106 construction or enlargement project, such agency, commission or  
107 department shall give such notice as soon as practicable. As used in  
108 this section, "executive authority" shall be construed as defined in  
109 section 4-37e. The provisions of this section shall not apply to a  
110 community-based residential facility for [mentally retarded or  
111 mentally ill individuals] individuals with intellectual disability or  
112 persons with psychiatric disabilities.

113 Sec. 4. Section 8-119t of the general statutes is repealed and the  
114 following is substituted in lieu thereof (*Effective October 1, 2011*):

115 (a) The Commissioner of Economic and Community Development  
116 shall encourage the development of independent living opportunities  
117 for low and moderate income handicapped and developmentally  
118 disabled persons by making grants-in-aid, within available  
119 appropriations, to state-wide, private, nonprofit housing development  
120 corporations which are organized and operating for the purpose of  
121 expanding independent living opportunities for such persons. Such  
122 grants-in-aid shall be used to facilitate the development of small,  
123 noninstitutionalized living units for such persons, through programs  
124 including, but not limited to, preproject development, receipt of  
125 federal funds, site acquisition and architectural review. For the  
126 purposes of this part, "handicapped and developmentally disabled  
127 persons" means any persons who are physically or mentally  
128 handicapped, including, but not limited to, [mentally retarded,]  
129 persons with autism, persons with intellectual disability or persons  
130 who are physically disabled [,] or sensory impaired. [and autistic  
131 persons.]

132 (b) The Commissioner of Economic and Community Development  
133 shall adopt regulations, in accordance with chapter 54, to carry out the  
134 purposes of this section.

135 Sec. 5. Subparagraph (B) of subdivision (7) of section 12-81 of the  
136 general statutes is repealed and the following is substituted in lieu  
137 thereof (*Effective October 1, 2011*):

138 (B) On and after July 1, 1967, housing subsidized, in whole or in  
139 part, by federal, state or local government and housing for persons or  
140 families of low and moderate income shall not constitute a charitable  
141 purpose under this section. As used in this subdivision, "housing" shall  
142 not include real property used for temporary housing belonging to, or  
143 held in trust for, any corporation organized exclusively for charitable  
144 purposes and exempt from taxation for federal income tax purposes,  
145 the primary use of which property is one or more of the following: (i)  
146 An orphanage; (ii) a drug or alcohol treatment or rehabilitation facility;  
147 (iii) housing for homeless, [retarded or] mentally or physically

148 handicapped individuals or persons with intellectual disability, or for  
149 battered or abused women and children; (iv) housing for ex-offenders  
150 or for individuals participating in a program sponsored by the state  
151 Department of Correction or Judicial Branch; and (v) short-term  
152 housing operated by a charitable organization where the average  
153 length of stay is less than six months. The operation of such housing,  
154 including the receipt of any rental payments, by such charitable  
155 organization shall be deemed to be an exclusively charitable purpose;

156 Sec. 6. Section 17a-580 of the general statutes is repealed and the  
157 following is substituted in lieu thereof (*Effective October 1, 2011*):

158 As used in sections 17a-581 to 17a-602, inclusive, and this section:

159 (1) "Acquittee" means any person found not guilty by reason of  
160 mental disease or defect pursuant to section 53a-13;

161 (2) "Board" means the Psychiatric Security Review Board established  
162 pursuant to section 17a-581;

163 (3) "Conditional release" means release subject to the jurisdiction of  
164 the board for supervision and treatment on an outpatient basis and  
165 includes, but is not limited to, the monitoring of mental and physical  
166 health treatment;

167 (4) "Court" means the Superior Court;

168 (5) "Danger to himself or others" includes danger to the property of  
169 others;

170 (6) "Hospital for mental illness" means any public or private  
171 hospital, retreat, institution, house or place in which a person with  
172 psychiatric disabilities or drug-dependent person is received or  
173 detained as a patient, but does not include any correctional institution  
174 of the state;

175 (7) "Mental illness" includes any mental illness in a state of  
176 remission when the illness may, with reasonable medical probability,

177 become active;

178 (8) ["Mental retardation" means mental retardation as defined in  
179 section 1-1g] "Intellectual disability" has the same meaning as provided  
180 in section 1-1g, as amended by this act;

181 (9) "Person who should be conditionally released" means an  
182 acquittee who has psychiatric disabilities or [is mentally retarded] has  
183 intellectual disability to the extent that his final discharge would  
184 constitute a danger to himself or others but who can be adequately  
185 controlled with available supervision and treatment on conditional  
186 release;

187 (10) "Person who should be confined" means an acquittee who has  
188 psychiatric disabilities or [is mentally retarded] has intellectual  
189 disability to the extent that [his] such acquittee's discharge or  
190 conditional release would constitute a danger to [himself] the acquittee  
191 or others and who cannot be adequately controlled with available  
192 supervision and treatment on conditional release;

193 (11) "Person who should be discharged" means an acquittee who  
194 does not have psychiatric disabilities or [is not mentally retarded] does  
195 not have intellectual disability to the extent that [his] such acquittee's  
196 discharge would constitute a danger to [himself] the acquittee or  
197 others;

198 (12) "Psychiatrist" means a physician specializing in psychiatry and  
199 licensed under the provisions of sections 20-9 to 20-12, inclusive;

200 (13) "Psychologist" means a clinical psychologist licensed under the  
201 provisions of sections 20-186 to 20-195, inclusive;

202 (14) "State's attorney" means the state's attorney for the judicial  
203 district wherein the acquittee was found not guilty by reason of mental  
204 disease or defect pursuant to section 53a-13;

205 (15) "Superintendent" means any person, body of persons or  
206 corporation, or the designee of any such person, body of persons or

207 corporation, which has the immediate supervision, management and  
208 control of a hospital for mental illness and the patients therein.

209 Sec. 7. Section 17b-226 of the general statutes is repealed and the  
210 following is substituted in lieu thereof (*Effective October 1, 2011*):

211 The state shall take into consideration the costs mandated by  
212 collective bargaining agreements with certified collective bargaining  
213 agents or other agreements between employers and employees when  
214 making grants to or entering into contracts for services with the  
215 following: (1) Nonprofit organizations for mental health services  
216 pursuant to section 17a-476; (2) nonprofit organizations concerning  
217 services for drug-dependent and alcohol-dependent persons pursuant  
218 to section 17a-676; (3) residential and educational services pursuant to  
219 subsections (a) and (b) of section 17a-17; (4) psychiatric clinics and  
220 community mental health facilities pursuant to section 17a-20; (5) day  
221 treatment centers pursuant to section 17a-22; (6) youth service bureaus  
222 pursuant to subsection (a) of section 10-19n; (7) programs for the  
223 treatment and prevention of child abuse and neglect and for juvenile  
224 diversion pursuant to section 17a-49; (8) community-based service  
225 programs pursuant to sections 18-101i and 18-101k; (9) programs for  
226 [mentally retarded] children and adults with intellectual disability  
227 pursuant to section 17a-217; (10) community-based residential facilities  
228 for [mentally retarded] persons with intellectual disability pursuant to  
229 section 17a-218; and (11) vocational training programs for [mentally  
230 retarded] adults with intellectual disability pursuant to section 17a-  
231 226.

232 Sec. 8. Subdivision (17) of subsection (a) of section 19a-638 of the  
233 general statutes is repealed and the following is substituted in lieu  
234 thereof (*Effective October 1, 2011*):

235 (17) A residential facility for [the mentally retarded] persons with  
236 intellectual disability licensed pursuant to section 17a-227 and certified  
237 to participate in the Title XIX Medicaid program as an intermediate  
238 care facility for the mentally retarded;



239 Sec. 9. Section 45a-674 of the general statutes is repealed and the  
240 following is substituted in lieu thereof (*Effective October 1, 2011*):

241 At any hearing for appointment of a plenary guardian or limited  
242 guardian of the person with [mental retardation] intellectual disability,  
243 the court shall receive evidence as to the condition of the respondent,  
244 including a written report or testimony by a Department of  
245 Developmental Services assessment team appointed by the  
246 Commissioner of Developmental Services or his designee, no member  
247 of which is related by blood, marriage or adoption to either the  
248 applicant or the respondent and each member of which has personally  
249 observed or examined the respondent within forty-five days next  
250 preceding such hearing. The assessment team shall be comprised of at  
251 least two representatives from among appropriate disciplines having  
252 expertise in the evaluation of persons alleged to [be mentally retarded]  
253 have intellectual disability. The assessment team members shall make  
254 their report on a form provided for that purpose by the Office of the  
255 Probate Court Administrator and shall answer questions on such form  
256 as fully and completely as possible. The report shall contain specific  
257 information regarding the severity of the [mental retardation]  
258 intellectual disability of the respondent and those specific areas, if any,  
259 in which he needs the supervision and protection of a guardian, and  
260 shall state upon the form the reasons for such opinions. The applicant,  
261 respondent or his counsel shall have the right to present evidence and  
262 cross-examine witnesses who testify at any hearing on the application.  
263 If such respondent or his counsel notifies the court not less than three  
264 days before the hearing that he wishes to cross-examine the witnesses,  
265 the court shall order such witnesses to appear. The fees for such  
266 assessment team shall be paid from funds appropriated to the  
267 Department of Developmental Services.

268 Sec. 10. Subsection (b) of section 46a-11b of the general statutes, as  
269 amended by section 37 of public act 11-16, is repealed and the  
270 following is substituted in lieu thereof (*Effective October 1, 2011*):

271 (b) Such report shall contain the name and address of the allegedly

272 abused or neglected person, a statement from the person making the  
273 report indicating his belief that such person has intellectual disability,  
274 information supporting the supposition that such person is  
275 substantially unable to protect himself from abuse or neglect,  
276 information regarding the nature and extent of the abuse or neglect  
277 and any other information which the person making such report  
278 believes might be helpful in an investigation of the case and the  
279 protection of such person with [mental retardation] intellectual  
280 disability.

281 Sec. 11. Section 53a-59a of the general statutes is repealed and the  
282 following is substituted in lieu thereof (*Effective October 1, 2011*):

283 (a) A person is guilty of assault of an elderly, blind, disabled [,] or  
284 pregnant [or mentally retarded] person or a person with intellectual  
285 disability in the first degree, when such person commits assault in the  
286 first degree under section 53a-59(a)(2), 53a-59(a)(3) or 53a-59(a)(5) and  
287 (1) the victim of such assault has attained at least sixty years of age, is  
288 blind or physically disabled, as defined in section 1-1f, or is pregnant,  
289 or (2) the victim of such assault is a person with [mental retardation]  
290 intellectual disability, as defined in section 1-1g, as amended by this  
291 act, and the actor is not a person with [mental retardation] intellectual  
292 disability.

293 (b) No person shall be found guilty of assault in the first degree and  
294 assault of an elderly, blind, disabled [,] or pregnant [or mentally  
295 retarded] person or a person with intellectual disability in the first  
296 degree upon the same incident of assault but such person may be  
297 charged and prosecuted for both such offenses upon the same  
298 information.

299 (c) In any prosecution for an offense under this section based on the  
300 victim being pregnant it shall be an affirmative defense that the actor,  
301 at the time such actor engaged in the conduct constituting the offense,  
302 did not know the victim was pregnant. In any prosecution for an  
303 offense under this section based on the victim being a person with

304 [mental retardation] intellectual disability, it shall be an affirmative  
305 defense that the actor, at the time such actor engaged in the conduct  
306 constituting the offense, did not know the victim was a person with  
307 [mental retardation] intellectual disability.

308 (d) Assault of an elderly, blind, disabled [,] or pregnant [or mentally  
309 retarded] person or a person with intellectual disability in the first  
310 degree is a class B felony and any person found guilty under this  
311 section shall be sentenced to a term of imprisonment of which five  
312 years of the sentence imposed may not be suspended or reduced by  
313 the court.

314 Sec. 12. Section 53a-60b of the general statutes is repealed and the  
315 following is substituted in lieu thereof (*Effective October 1, 2011*):

316 (a) A person is guilty of assault of an elderly, blind, disabled [,] or  
317 pregnant [or mentally retarded] person or a person with intellectual  
318 disability in the second degree when such person commits assault in  
319 the second degree under section 53a-60 or larceny in the second degree  
320 under section 53a-123(a)(3) and (1) the victim of such assault or larceny  
321 has attained at least sixty years of age, is blind or physically disabled,  
322 as defined in section 1-1f, or is pregnant, or (2) the victim of such  
323 assault or larceny is a person with [mental retardation] intellectual  
324 disability, as defined in section 1-1g, as amended by this act, and the  
325 actor is not a person with [mental retardation] intellectual disability.

326 (b) No person shall be found guilty of assault in the second degree  
327 or larceny in the second degree under section 53a-123(a)(3) and assault  
328 of an elderly, blind, disabled [,] or pregnant [or mentally retarded]  
329 person or a person with intellectual disability in the second degree  
330 upon the same incident of assault or larceny, as the case may be, but  
331 such person may be charged and prosecuted for all such offenses upon  
332 the same information.

333 (c) In any prosecution for an offense under this section based on the  
334 victim being pregnant it shall be an affirmative defense that the actor,  
335 at the time such actor engaged in the conduct constituting the offense,

336 did not know the victim was pregnant. In any prosecution for an  
337 offense under this section based on the victim being a person with  
338 [mental retardation] intellectual disability, it shall be an affirmative  
339 defense that the actor, at the time such actor engaged in the conduct  
340 constituting the offense, did not know the victim was a person with  
341 [mental retardation] intellectual disability.

342 (d) Assault of an elderly, blind, disabled [,] or pregnant [or mentally  
343 retarded] person or a person with intellectual disability in the second  
344 degree is a class D felony and any person found guilty under this  
345 section shall be sentenced to a term of imprisonment of which two  
346 years of the sentence imposed may not be suspended or reduced by  
347 the court.

348 Sec. 13. Section 53a-60c of the general statutes is repealed and the  
349 following is substituted in lieu thereof (*Effective October 1, 2011*):

350 (a) A person is guilty of assault of an elderly, blind, disabled [,] or  
351 pregnant [or mentally retarded] person or a person with intellectual  
352 disability in the second degree with a firearm when such person  
353 commits assault in the second degree with a firearm under section  
354 53a-60a and (1) the victim of such assault has attained at least sixty  
355 years of age, is blind or physically disabled, as defined in section 1-1f,  
356 or is pregnant, or (2) the victim of such assault is a person with [mental  
357 retardation] intellectual disability, as defined in section 1-1g, as  
358 amended by this act, and the actor is not a person with [mental  
359 retardation] intellectual disability.

360 (b) No person shall be found guilty of assault in the second degree  
361 or assault in the second degree with a firearm and assault of an elderly,  
362 blind, disabled [,] or pregnant [or mentally retarded] person or a  
363 person with intellectual disability in the second degree with a firearm  
364 upon the same incident of assault but such person may be charged and  
365 prosecuted for all of such offenses upon the same information.

366 (c) In any prosecution for an offense under this section based on the  
367 victim being pregnant it shall be an affirmative defense that the actor,

368 at the time such actor engaged in the conduct constituting the offense,  
369 did not know the victim was pregnant. In any prosecution for an  
370 offense under this section based on the victim being a person with  
371 [mental retardation] intellectual disability, it shall be an affirmative  
372 defense that the actor, at the time such actor engaged in the conduct  
373 constituting the offense, did not know the victim was a person with  
374 [mental retardation] intellectual disability.

375 (d) Assault of an elderly, blind, disabled [,] or pregnant [or mentally  
376 retarded] person or a person with intellectual disability in the second  
377 degree with a firearm is a class D felony and any person found guilty  
378 under this section shall be sentenced to a term of imprisonment of  
379 which three years of the sentence imposed may not be suspended or  
380 reduced by the court.

381 Sec. 14. Section 53a-61a of the general statutes is repealed and the  
382 following is substituted in lieu thereof (*Effective October 1, 2011*):

383 (a) A person is guilty of assault of an elderly, blind, disabled [,] or  
384 pregnant [or mentally retarded] person or a person with intellectual  
385 disability in the third degree when such person commits assault in the  
386 third degree under section 53a-61 and (1) the victim of such assault has  
387 attained at least sixty years of age, is blind or physically disabled, as  
388 defined in section 1-1f, or is pregnant, or (2) the victim of such assault  
389 is a person with [mental retardation] intellectual disability, as defined  
390 in section 1-1g, as amended by this act, and the actor is not a person  
391 with [mental retardation] intellectual disability.

392 (b) No person shall be found guilty of assault in the third degree  
393 and assault of an elderly, blind, disabled [,] or pregnant [or mentally  
394 retarded] person or a person with intellectual disability in the third  
395 degree upon the same incident of assault but such person may be  
396 charged and prosecuted for both such offenses upon the same  
397 information.

398 (c) In any prosecution for an offense under this section based on the  
399 victim being pregnant it shall be an affirmative defense that the actor,

400 at the time such actor engaged in the conduct constituting the offense,  
401 did not know the victim was pregnant. In any prosecution for an  
402 offense under this section based on the victim being a person with  
403 [mental retardation] intellectual disability, it shall be an affirmative  
404 defense that the actor, at the time such actor engaged in the conduct  
405 constituting the offense, did not know the victim was a person with  
406 [mental retardation] intellectual disability.

407 (d) Assault of an elderly, blind, disabled [,] or pregnant [or mentally  
408 retarded] person or a person with intellectual disability in the third  
409 degree is a class A misdemeanor and any person found guilty under  
410 this section shall be sentenced to a term of imprisonment of one year  
411 which shall not be suspended or reduced.

412 Sec. 15. Section 53a-320 of the general statutes is repealed and the  
413 following is substituted in lieu thereof (*Effective October 1, 2011*):

414 For the purposes of sections 53a-320 to 53a-323, inclusive, as  
415 amended by this act:

416 (1) "Person" means any natural person, corporation, partnership,  
417 limited liability company, unincorporated business or other business  
418 entity;

419 (2) "Elderly person" means any person who is sixty years of age or  
420 older;

421 (3) "Blind person" means any person who is blind, as defined in  
422 section 1-1f;

423 (4) "Disabled person" means any person who is physically disabled,  
424 as defined in section 1-1f;

425 (5) ["Mentally retarded person"] "Person with intellectual disability"  
426 means any person with [mental retardation] intellectual disability, as  
427 defined in section 1-1g, as amended by this act;

428 (6) "Abuse" means any repeated act or omission that causes physical

429 injury or serious physical injury to an elderly, blind [.] or disabled  
430 person or [mentally retarded] a person with intellectual disability,  
431 except when (A) the act or omission is a part of the treatment and care,  
432 and in furtherance of the health and safety, of the elderly, blind [.] or  
433 disabled person or [mentally retarded] person with intellectual  
434 disability, or (B) the act or omission is based upon the instructions,  
435 wishes, consent, refusal to consent or revocation of consent of an  
436 elderly, blind [.] or disabled person or [mentally retarded] a person  
437 with intellectual disability, or the legal representative of an incapable  
438 elderly, blind [.] or disabled person or [mentally retarded] a person  
439 with intellectual disability. For purposes of this subdivision, "repeated"  
440 means an act or omission that occurs on two or more occasions;

441 (7) "Intentionally" means "intentionally" as defined in subdivision  
442 (11) of section 53a-3;

443 (8) "Knowingly" means "knowingly" as defined in subdivision (12)  
444 of section 53a-3;

445 (9) "Recklessly" means "recklessly" as defined in subdivision (13) of  
446 section 53a-3;

447 (10) "Physical injury" means "physical injury" as defined in  
448 subdivision (3) of section 53a-3; and

449 (11) "Serious physical injury" means "serious physical injury" as  
450 defined in subdivision (4) of section 53a-3.

451 Sec. 16. Section 53a-321 of the general statutes is repealed and the  
452 following is substituted in lieu thereof (*Effective October 1, 2011*):

453 (a) A person is guilty of abuse in the first degree when such person  
454 intentionally commits abuse of an elderly, blind [.] or disabled person  
455 or [mentally retarded] a person with intellectual disability and causes  
456 serious physical injury to such elderly, blind [.] or disabled person or  
457 [mentally retarded] person with intellectual disability.

458 (b) Abuse in the first degree is a class C felony.

459 Sec. 17. Section 53a-322 of the general statutes is repealed and the  
460 following is substituted in lieu thereof (*Effective October 1, 2011*):

461 (a) A person is guilty of abuse in the second degree when such  
462 person: (1) Intentionally commits abuse of an elderly, blind [.] or  
463 disabled person or [mentally retarded] a person with intellectual  
464 disability and causes physical injury to such elderly, blind [.] or  
465 disabled person or [mentally retarded] person with intellectual  
466 disability, or (2) knowingly commits abuse of an elderly, blind [.] or  
467 disabled person or [mentally retarded] a person with intellectual  
468 disability and causes serious physical injury to such elderly, blind [.] or  
469 disabled person or [mentally retarded] person with intellectual  
470 disability.

471 (b) Abuse in the second degree is a class D felony.

472 Sec. 18. Section 53a-323 of the general statutes is repealed and the  
473 following is substituted in lieu thereof (*Effective October 1, 2011*):

474 (a) A person is guilty of abuse in the third degree when such person  
475 (1) knowingly commits abuse of an elderly, blind [.] or disabled person  
476 or [mentally retarded] a person with intellectual disability and causes  
477 physical injury to such elderly, blind [.] or disabled person or  
478 [mentally retarded] person with intellectual disability, or (2) recklessly  
479 commits abuse of an elderly, blind [.] or disabled person or [mentally  
480 retarded] a person with intellectual disability and causes physical  
481 injury to such elderly, blind [.] or disabled person or [mentally  
482 retarded] person or person with intellectual disability.

483 (b) Abuse in the third degree is a class A misdemeanor.

484 Sec. 19. Subsection (i) of section 54-56d of the general statutes is  
485 repealed and the following is substituted in lieu thereof (*Effective*  
486 *October 1, 2011*):

487 (i) The placement of the defendant for treatment for the purpose of  
488 rendering the defendant competent shall comply with the following



489 conditions: (1) The period of placement under the order or  
490 combination of orders shall not exceed the period of the maximum  
491 sentence which the defendant could receive on conviction of the  
492 charges against the defendant or eighteen months, whichever is less;  
493 (2) the placement shall be either in the custody of the Commissioner of  
494 Mental Health and Addiction Services, the Commissioner of Children  
495 and Families or the Commissioner of Developmental Services or, if the  
496 defendant or the appropriate commissioner agrees to provide  
497 payment, in the custody of any appropriate mental health facility or  
498 treatment program which agrees to provide treatment to the defendant  
499 and to adhere to the requirements of this section; and (3) the court  
500 shall order the placement, on either an inpatient or an outpatient basis,  
501 which the court finds is the least restrictive placement appropriate and  
502 available to restore competency. If outpatient treatment is the least  
503 restrictive placement for a defendant who has not yet been released  
504 from a correctional facility, the court shall consider whether the  
505 availability of such treatment is a sufficient basis on which to release  
506 the defendant on a promise to appear, conditions of release, cash bail  
507 or bond. If the court determines that the defendant may not be so  
508 released, the court shall order treatment of the defendant on an  
509 inpatient basis at a mental health facility or [mental retardation]  
510 facility for persons with intellectual disability. Not later than twenty-  
511 four hours after the court orders placement of the defendant for  
512 treatment for the purpose of rendering the defendant competent, the  
513 examiners shall transmit information obtained about the defendant  
514 during the course of an examination pursuant to subsection (d) of this  
515 section to the health care provider named in the court's order.

516 Sec. 20. (Effective October 1, 2011) (a) (1) Wherever the words "the  
517 mentally retarded" are used in the following general statutes, "persons  
518 with intellectual disability" or "individuals with intellectual disability"  
519 shall be substituted in lieu thereof; (2) wherever the words "mentally  
520 retarded", "mentally retarded person" or "mentally retarded persons"  
521 are used in the following general statutes, the words "intellectual  
522 disability", "person with intellectual disability" or "persons with

523 intellectual disability" shall be substituted in lieu thereof; and  
 524 (3) wherever the words "mental retardation" are used in the following  
 525 general statutes, the words "intellectual disability" shall be substituted  
 526 in lieu thereof: 2c-2b, 4a-60, 4b-31, 8-2g, 8-3e, 9-159s, 10-91f, 17a-593,  
 527 17a-594, 17a-596, 45a-598, 45a-669, 45a-672, 45a-676, 45a-677, 45a-678,  
 528 45a-679, 45a-680, 45a-681, 45a-682, 45a-683, 46a-51, 46a-60, 46a-64, 46a-  
 529 64b, 46a-66, 46a-70, 46a-71, 46a-72, 46a-73, 46a-75, 46b-76, 46b-84, 52-  
 530 146o, 53a-46a, 53a-181i and 54-250.

531 (b) The Legislative Commissioners' Office shall, in codifying said  
 532 sections of the general statutes pursuant to subsection (a) of this  
 533 section, make such technical, grammatical and punctuation changes as  
 534 are necessary to carry out the purposes of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	45a-670
Sec. 2	<i>October 1, 2011</i>	1-1g
Sec. 3	<i>October 1, 2011</i>	4b-28(b)
Sec. 4	<i>October 1, 2011</i>	8-119t
Sec. 5	<i>October 1, 2011</i>	12-81(7)(B)
Sec. 6	<i>October 1, 2011</i>	17a-580
Sec. 7	<i>October 1, 2011</i>	17b-226
Sec. 8	<i>October 1, 2011</i>	19a-638(a)(17)
Sec. 9	<i>October 1, 2011</i>	45a-674
Sec. 10	<i>October 1, 2011</i>	46a-11b(b)
Sec. 11	<i>October 1, 2011</i>	53a-59a
Sec. 12	<i>October 1, 2011</i>	53a-60b
Sec. 13	<i>October 1, 2011</i>	53a-60c
Sec. 14	<i>October 1, 2011</i>	53a-61a
Sec. 15	<i>October 1, 2011</i>	53a-320
Sec. 16	<i>October 1, 2011</i>	53a-321
Sec. 17	<i>October 1, 2011</i>	53a-322
Sec. 18	<i>October 1, 2011</i>	53a-323
Sec. 19	<i>October 1, 2011</i>	54-56d(i)
Sec. 20	<i>October 1, 2011</i>	New section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill allows a parent or guardian of a person under age 18 to apply for guardianship of that child 180 days prior to that child turning 18. This revision to the probate court guardianship application timeline is procedural, and is not expected to result in a fiscal impact. The bill also makes clarifying and technical changes, including updating terminology to mirror recent changes in federal law, that have no fiscal impact.

House "A" strikes the underlying bill and results in the fiscal impact described above.

**OLR Bill Analysis****sHB 6440 (as amended by House "A")\******AN ACT CONCERNING APPLICATIONS FOR GUARDIANSHIP OF AN ADULT WITH INTELLECTUAL DISABILITY AND STATUTORY CHANGES RELATED TO INTELLECTUAL DISABILITY.*****SUMMARY:**

Among other provisions, PA 11-16 updates terminology used by the Department of Developmental Services (DDS) and the Office of Protection and Advocacy for Persons With Disabilities (OP&A) in their provision of services, substituting the term "intellectual disability" for "mental retardation" to reflect changes in federal law and within the developmental disabilities community. This bill also substitutes the term "intellectual disability" for "mental retardation" in numerous other sections of the General Statutes.

The bill also specifies that for purposes of numerous sections of the General Statutes, including certain provisions amended by PA 11-16, "intellectual disability" and "mental retardation" mean a significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period. This definition is already used for mental retardation in many sections of the law, and PA 11-16 specifies that for many specified sections, intellectual disability and mental retardation have the same meaning as specified above.

The bill also makes a change regarding applications for guardianship. It allows a minor's parent or guardian who anticipates that the minor will need a guardian after turning age 18 to file an application for guardianship up to 180 days before the minor's eighteenth birthday. Under the bill, a probate court may grant such an application according to existing law for guardianship applications, provided that the probate court's order takes effect no earlier than the

minor's eighteenth birthday (§ 1).

The bill also makes minor, technical, and conforming changes.

\*House Amendment "A" strikes the underlying bill, deleting many provisions making the terminology changes noted above (including many changes made by PA 11-16) and making other technical changes. It deletes other provisions in the underlying bill regarding DDS (such as changes made by PA 11-16 and other changes), including provisions (1) specifying that for purposes of the department's community residential facility revolving loan program, such facilities are open to people with "autism spectrum disorder" instead of just "autism"; (2) replacing references to "community training homes" with "community companion homes and community living arrangements"; and (3) specifying that the right to request a hearing for a DDS denial of program or service eligibility only extends to those with intellectual disabilities, rather than anyone denied eligibility.

EFFECTIVE DATE: October 1, 2011

### **SUBSTITUTION OF "INTELLECTUAL DISABILITY" FOR "MENTAL RETARDATION"**

In addition to other technical terminology changes made by the bill, the bill specifies that the substitution of the term "intellectual disability" for "mental retardation," as well as the substitution of related phrases, applies to specified sections of the general statutes.

The bill requires the Legislative Commissioners' Office to make technical, grammatical, and punctuation changes needed to carry out these purposes when codifying the bill.

### **BACKGROUND**

#### ***Updated Terminology***

A recently enacted federal law, known as "Rosa's Law" (P. L. 111-256), changes references in federal law from "mental retardation" to "intellectual disability" and from a "mentally retarded individual" to an "individual with an intellectual disability."

The new edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-V) by the American Psychiatric Association, scheduled to take effect in May 2013, will change the term “mental retardation” to “intellectual disability” and the term “autistic disorder” to “autism spectrum disorder.”

***Related Act***

PA 11-16 updates terminology used by DDS and OP&A in their provision of services. It substitutes the term “intellectual disability” for “mental retardation.” It also uses the term “autism spectrum disorder” instead of just “autism” to encompass all autism diagnoses on the autism spectrum.

***Related Bill***

HB 6278 (File 93), reported favorably by the Public Health Committee, substitutes the term “intellectual disability” for “mental retardation” and “autism spectrum disorder” for “autism” in the DDS statutes pertaining to its provision of autism services.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 44      Nay 0      (04/12/2011)